

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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BOBBY LEE MONTGOMERY,

Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT, et al.,

Defendants.

Case No. 2:11-cv-02079-MMD-PAL

ORDER ADOPTING REPORT AND  
RECOMMENDATION

Before this Court is the Report and Recommendation of the United States Magistrate Judge (dkt. no. 33), entered by the Honorable Peggy A. Leen regarding Defendants' Motions to Dismiss (dkt. nos. 18, 20, 25). Plaintiff Bobby Lee Montgomery filed an objection to Magistrate Judge Leen's Report and Recommendation in accordance with Local Rule LR IB 3-2 of the Rules of Practice of the United States District Court for the District of Nevada. (Dkt. no. 34). The Objection appeared to reargue the merits of the Motions, and did not specify particular objections to the Report and Recommendation.

Nevertheless, the Court has conducted a *de novo* review of the record in this case in accordance with 28 U.S.C. §636(b)(1)(B)-(C) and Local Rule IB 3-2 and determines that the Report and Recommendation of Magistrate Judge Leen should be accepted and adopted in whole.

Accordingly, IT IS HEREBY ORDERED that the Report and Recommendation (dkt. no. 33) is ADOPTED.

1 IT IS FURTHER ORDERED that the District Attorney Defendants' Motion to  
2 Dismiss (dkt. no. 25) is GRANTED.

3 IT IS FURTHER ORDERED that Defendant Goodman's Motion to Dismiss (dkt.  
4 no. 18) is GRANTED.

5 IT IS FURTHER ORDERED that Las Vegas Metropolitan Police Department  
6 Defendants' Motion to Dismiss (dkt. no. 20) is GRANTED in part and DENIED in part.  
7 Only the individual capacity claims of unlawful detention and arrest against Defendants  
8 Kartchner, Coates, and Ruiz survive.

9 In sum, the following claims are hereby dismissed:

- 10 1. Plaintiff's official capacity claims against the Arresting Officers;
- 11 2. Plaintiff's claims against Defendants Goodman and Gillespie;
- 12 3. Plaintiff's claims against Defendant City Council;
- 13 4. Plaintiff's malicious prosecution claim;
- 14 5. Plaintiff's excessive use of force claim;
- 15 6. Plaintiff's Fourteenth Amendment due process claim against the District  
16 Attorney Defendants;
- 17 7. Plaintiff's Fourteenth Amendment equal protection claim;
- 18 8. Plaintiff's First Amendment claim;
- 19 9. Plaintiff's Ninth Amendment claim;
- 20 10. Plaintiff's Eighth Amendment claim; and
- 21 11. Plaintiff's intentional infliction of emotional distress claim.

22 IT IS SO ORDERED.

23 ENTERED THIS 20<sup>th</sup> day of June 2013.

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26 MIRANDA M. DU  
27 UNITED STATES DISTRICT JUDGE  
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